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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,106	02/15/2006	Angus Reardon	REAR0101PUSA	2673
22045 7590 06/09/2009 BROOKS KUSHMAN P.C. 1000 TOWN CENTER TWENTY-SECOND FLOOR SOUTHFIELD, MI 48075				
EXAMINER BAYOU, AMENE SETEGNE				
ART UNIT		PAPER NUMBER		
3746				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/595,106

Applicant(s)

REARDON, ANGUS

Examiner

AMENE S. BAYOU

Art Unit

3746

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 3,9,17,19 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8,10-16,18,20 and 22-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02/15/06 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. In re claim 10 it recites "one component". It is not clear which part of the apparatus is defined as "component". In addition the claim further recites "the other component". There is no antecedent basis for the recitation.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,2,5-8,10-13,15,16,18,22 are rejected under 35 U.S.C 102(b) as being anticipated by Strauss (US patent number 4243529).
6. In re claim 1 Strauss disclose an oil collection apparatus including:
- An apparatus (10) for attachment to an inlet end of a conduit in fluid communication with a remote pump (26) for removing liquid from a pool of liquid,

the apparatus comprising a pair of substantially spheroidal or ovoidal shaped sections (52,54) that mount about the inlet end of the conduit (16), the sections (52,54) forming a hollow body having a substantially elliptical cross-section; and wherein the pair of sections form at least one opening (56) in a generally horizontal plane between them allowing liquid to ingress from the pool to the interior of the hollow body (54) and the inlet of the conduit (16). In regards to the limitation An apparatus (20), in figure 1, for attachment to an inlet end of a conduit (17) in fluid communication with a remote pump (53) for removing liquid from a pool of liquid. Hagan, however fails to disclose the following limitation which is taught by Strauss:

7. In re claim 2 Strauss disclose an oil collection apparatus including:
 - The at least one opening (56), in figure 1, is located at a circumferential portion of mid section of the hollow body (52, 54).
8. In re claim 5 Strauss disclose an oil collection apparatus including:
 - The at least one opening (56) in the hollow body further comprises a plurality of spaced openings (56 comprises screen 102 clearly seen in figure 6), which are arranged in a row about the mid section or mid part of the hollow body (52, 54) which has the greatest diameter, in figure 1. One or more openings in the hollow body comprise a plurality of spaced openings (22), in figure 3.
9. In re claim 6 Strauss disclose an oil collection apparatus including:

- The opening formed (the opening between the sections 52, 54) is a single elongate opening (it goes around in a circular fashion) in the hollow body about a majority of its central diameter, in figure 1 and 2.
10. In re claim 7 Strauss disclose an oil collection apparatus including:
- The opening (the opening between the sections 52, 54) is adjustable in width (by varying the dimension of 82), in figure 1. In addition please note that it has been held that the provision of adjustability, where needed, involves routine skill in the art. In re Stevens, *101 USPQ 284 (CCPA 1954)*.
11. In re claim 8 Strauss disclose an oil collection apparatus including:
- The pair of sections (52, 54) are releasably attached to each other (via flanges 58, 60), in figure 1.
12. In re claim 10 Strauss disclose an oil collection apparatus including:
- One component is hingedly attached to the other component at adjacent respective ends of each component (the upper section of (20) and the lower section are hingedly attached to each other), in figure 1
13. In re claim 11 Strauss disclose an oil collection apparatus including:
- The hollow body (52, 54) has a retaining means (the point of attachment holding the tube 16) which in use retains the inlet for the conduit (16) within the hollow body (54), in figure 1.
14. In re claim 12 Strauss disclose an oil collection apparatus including:
- The retaining means is a plurality of upright rods (70) attached to an internal surface of the hollow body, in figure 4. Please note that although one upright rod

(70) is disclosed making a plurality of them is a mere duplication that would be obvious to one skilled in the art.

15. In re claim 13 Strauss disclose an oil collection apparatus including:

- The retaining means is one of a plurality of peripheral ribs (52 or 54) located on an internal surface of the hollow body (the internal structure of both 52 and 54 is curved and thus constitute a rib (or bow) structure.

16. In re claim 15 Strauss disclose an oil collection apparatus including:

- The apparatus includes the pump inlet (connected to 16), in figure 1.

17. In re claim 16 Strauss disclose an oil collection apparatus including:

Strauss discloses:

- The pump (28) inlet includes a hollow valve casing having a non return valve or check valve (46), in figure 1.

18. In re claim 18 Strauss disclose an oil collection apparatus including:

- The inlet conduit (16) is a hose (column 2, lines 51, 52), and provides fluid communication between the pump inlet and the remote pump (28).

19. In re claim 22 Strauss disclose an oil collection apparatus including:

- The pump inlet is protected by a strainer or gauze (110) to prevent particulate matter entering the pump inlet, in figure 1 and 6.

Claim Rejections - 35 USC § 103

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. Claim 4 is rejected under 35 U.S.C 103(a) as being unpatentable over Strauss as applied to claim 1 in view of Ellison (US patent number 5053145).

22. In re claim 4, Strauss discloses the claimed invention except the following limitation which is taught by Ellison:

- The hollow body (10) is nonflotable in a pool of water, in column 3, lines 36-37.

23. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the hollow body non foldable as taught by Ellison in order to ensure that the hollow body is structurally supported (fixed) against external loads.

24. Claim 14 is rejected under 35 U.S.C 103(a) as being unpatentable over Strauss in view of Ellison as applied to claim 4 further in view of Hagan (US patent number 5108591).

25. In Claim 14 Strauss in view of Ellison as applied to claim 4 disclose the claimed invention except the following limitation which is taught by Hagan

- The hollow body is provided with an attachment for attaching a tether (18), in figure 1.

26. It would have been obvious to one skilled in the art to provide a tether as taught by Hagan in order to stabilize the floating body).Please note that the location of attachment of the tether (either on the hollow body or at the pipe line) would be an obvious design choice.

27. Claim 20 is rejected under 35 U.S.C 103(a) as being unpatentable over Strauss as applied to claim15 in view of Hagan.

28. In re claim 20 Strauss disclose the claimed invention except the following limitation which is taught by Hagan:

- The pump (53) is located on dry land, in figure 1.

29. It would have been obvious to one having ordinary skill in the art at the time the invention was made to place the pump on a dry land as taught by Hagan for ease of transporting the collected oil or water.

30. Claims 23-25 are rejected under 35 U.S.C 103(a) as being unpatentable over Breslin (US patent number 5474685) in view of Strauss.

31. In re claim 23 Breslin disclose a method for recovering immiscible liquids including:

- A submersible apparatus (90, 97), in figure 1 and 4, for removing liquid (20) from a pool of water (22) using an external pump (88) and an inlet conduit (84), in figure 2. Breslin,however fails to disclose the following limitation which is taught by Strauss:
- A pair of arcuate sections (52,54) that when in use mount about an inlet conduit (56,16) for a pump (28) to form a hollow body (52,54),the pair of sections (52,54) forming at least one opening (56) located along the junction between the pair of sections (52,54) for a majority of the outer perimeter of the hollow body (52,54),allowing liquid to flow radially into the hollow body, in figure 1.

32. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the submersible apparatus of Breslin by

making it in the form of two arcuate sections as taught by Strauss in order to reduce drag.

33. In re claim 24 Breslin in view of Strauss as applied to claim 23 disclose the claimed invention:

Strauss discloses:

- The pair of sections (52, 54) are releasably attached (via flanges 58, 60), in figure 1.

34. In re claim 25 Breslin in view of Strauss as applied to claim 24 disclose the claimed invention:

Strauss discloses:

- The width of at least one opening (the opening between the sections 52, 54) is adjustable in width (by varying the dimension of 82), in figure 1. In addition please note that it has been held that the provision of adjustability, where needed, involves routine skill in the art . In re Stevens, *101 USPQ 284* (CCPA 1954).

Response to Arguments

35. Applicant's arguments with respect to claims 1 -23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

36. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amene S. Bayou whose telephone number is 571-270-3214. The examiner can normally be reached on Monday-Thursday, 9:00 am-5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on 571-272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)? If you would like assistance from a USPTO

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800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devon C Kramer/
Supervisory Patent Examiner, Art
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